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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2013-454

13 **NICOLA MARY JAMES**
14 **aka NICOLA JAMES-ENGERT**
15 **aka NICOLA MARY- ENGERT**
16 **424 Feldspar Lane**
17 **Santa Rosa, CA 95407**

ACCUSATION

18 **Registered Nurse License No. 222239**

Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about February 29, 1972, the Board of Registered Nursing issued Registered
25 Nurse License Number 222239 to Nicola Mary James, aka Nicola James-Engert, aka Nicola
26 Mary-Engert ("Respondent"). The Registered Nurse License was in full force and effect at all
27 times relevant to the charges brought herein and will expire on June 30, 2013, unless renewed.

28 **JURISDICTION**

3. This Accusation is brought before the Board of Registered Nursing (“Board”), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

RELEVANT STATUTES

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, . . .".

• • •

7. Section 2725.1 of the Code states:

“Notwithstanding any other provision of law, a registered nurse may dispense drugs or devices upon an order by a licensed physician and surgeon if the nurse is functioning within a licensed clinic as defined in paragraphs (1) and (2) of subdivision (a) of Section 1206, of the Health and Safety Code.”

...

8. Section 2726 of the Code states that except as otherwise provided herein, this chapter [the Nursing Practice Act] confers no authority to practice medicine or surgery.

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and

1 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
2 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
3 included in a stipulated settlement.

4 MEDICATIONS

5 10. "Heparin" is an anticoagulant (blood thinner) that is used to prevent the formation of
6 blood clots. It is classified as dangerous drug pursuant to Business and Professions Code section
7 4022, and is available only by prescription.

8 11. "Solu-Cortef" is a corticosteroid that comes in a sterile powdered form, necessitating
9 that it be converted into liquid form by use of a diluent such as Normal Saline. It is classified as
10 dangerous drug pursuant to Business and Professions Code section 4022, and is available only by
11 prescription.

12 12. "Bupivacaine" is a local anesthetic that is injected to reduce and/or relieve pain. It is
13 classified as dangerous drug pursuant to Business and Professions Code section 4022, and is
14 available only by prescription.

15 13. "Sodium Bicarbonate" is a medication available in an injectable form for use in
16 acidotic conditions. The injectable form of this medication is classified as dangerous drug
17 pursuant to Business and Professions Code section 4022, and is available only by prescription.

18 14. "DMSO", also known as dimethyl sulfoxide is a chemical byproduct of wood
19 processing. It is a homeopathic substance used for the treatment of topical pain and is available
20 without a physician prescription.

21 15. "Normal Saline" is a sterile fluid used to dilute powdered medications that can then
22 be injected. This sterile solution contained in a syringe is available only by prescription.

23 STATEMENT OF FACTS

24 16. At all relevant times Respondent was employed in a urology clinic associated with
25 Kaiser Permanente in Santa Rosa, California.

26 17. On or about October 11, 2007, Patient A had been diagnosed by a Kaiser urologist as
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1 having chronic interstitial cystitis.¹ Patient A was prescribed medications to be used at home for
2 treatment of this condition by way of bladder irrigation.

3 18. From 2007 through 2009, Respondent dispensed to Patient A the following
4 medications and/or supplies for her in-home bladder irrigation: Heparin, Solu-Cortef,
5 Bupivacaine, Sodium Bicarbonate (as a sterile solution in a syringe), Normal Saline (as a sterile
6 solution in a syringe), DSMO, syringes and needles ("supplies") for reconstituting and/or diluting
7 these medications. Respondent dispensed these medications and/or supplies to Patient A without
8 a physician's order.

9 19. Respondent failed to document in Patient A's chart that she had dispensed the above-
10 referenced medications and/or supplies.

11 20. Respondent failed to document any nursing education given to Patient A regarding
12 the proper method to reconstitute/mix the powdered medications used for her self-administered
13 in-home bladder irrigation treatments.

14 21. Respondent failed to document any nursing education given to Patient A regarding
15 the proper method for self-administered in-home bladder irrigation treatments.

16 FIRST CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct – Dispensing Medications and Supplies Without Physician Order)

18 22. Respondent is subject to discipline for unprofessional conduct pursuant to Business
19 and Professions Code section 2761(a), as set forth in sections 2725.1 and 2726, for the dispensing
20 of medications, syringes and needles to Patient A without a physician order. The facts in support
21 of this cause for discipline are set forth above in paragraphs 16 through 18.

22 SECOND CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct – Failure to Document Dispensing Medications
24 and or Patient Education)

25 23. Respondent is subject to discipline for unprofessional conduct pursuant to Business
26 and Professions Code section 2761(a), in that she failed to document in Patient A's chart that she

27 ¹ Interstitial cystitis is an inflammatory syndrome characterized by urinary urgency,
28 frequency and suprapubic pain and/or pressure.

1 had dispensed the medications and/or supplies as set forth above; failed to document that Patient
2 A had been instructed on the proper method to reconstitute (mix) the powdered medications for
3 use in bladder irrigation, and failed to document that Patient A understood the procedures to be
4 followed for her in-home bladder irrigation treatments. The facts in support of this cause for
5 discipline are set forth above in paragraphs 19 through 21.

6 PRAYER

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board of Registered Nursing issue a decision:

9 1. Revoking or suspending Registered Nurse License Number 222239, issued to Nicola
10 Mary James, aka Nicola James-Engert, aka Nicola Mary-Engert.

11 2. Ordering Nicola Mary James, aka Nicola James-Engert, aka Nicola Mary-Engert, to
12 pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of
13 this case, pursuant to Business and Professions Code section 125.3;

14 3. Taking such other and further action as deemed necessary and proper.

15 DATED: December 5, 2012

16 Louise R. Bailey
17 LOUISE R. BAILEY, M.ED., RN
18 Executive Officer
19 Board of Registered Nursing
20 Department of Consumer Affairs
21 State of California
22 Complainant

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